

PRESCOTT CITY COUNCIL
REGULAR VOTING MEETING
PRESCOTT, ARIZONA
JUNE 24, 2008

A REGULAR VOTING MEETING OF THE PRESCOTT CITY COUNCIL WAS HELD ON TUESDAY, JUNE 24, 2008, in the Prescott Municipal Building, 201 S. Cortez Street, Prescott, Arizona.

◆ **CALL TO ORDER**

◆ **INTRODUCTIONS**

◆ **INVOCATION:** Sam Webb, Fire Department Chaplain

Mr. Webb was not present; invocation was not given.

◆ **PLEDGE OF ALLEGIANCE:** Councilman Luzius

Councilman Luzius led the Council and audience in the Pledge of Allegiance.

◆ **ROLL CALL:**

PRESENT:

ABSENT:

Mayor Wilson
Councilman Bell
Councilman Lamerson
Councilwoman Lopas
Councilman Luzius
Councilman Roecker
Councilwoman Suttles

None

◆ **SUMMARY OF CURRENT OR RECENT EVENTS**

City Manager Steve Norwood said that he had sent out an e-mail to the Council, noting that the City had received notice late in the process that next month one of the City's sister cities, Suchitoto, would be celebrating their 150th anniversary and Councilwomen Suttles and Lopas along with himself and Police Chief Oaks were planning to attend.

Councilman Roecker said that the Suchitoto Sister City committee is up and running, and would be holding their third meeting tomorrow in Building 15 at Yavapai College. He invited everyone to attend and become a member. He added that he was glad that the councilwomen would be representing Prescott.

Mayor Wilson reminded everyone that the rodeo was coming up.

I. PUBLIC COMMENT (Please limit your comments to five minutes)

- A. Representative from the Jaycees re the Whiskey Row Street Dance.

No one from the Jaycees was present.

- B. Ed Compton re Privatization of the Golf Course.

Mr. Compton addressed the Council, stating that he has been a resident of Prescott for the last 4.5 years; his last 40 years he has been in the golf business. He is currently a Class A golf professional with the PGA. He said that on May 13 he had asked Ms. Burke to deliver folders to each of the Council members re privatization of the golf course. He suggested that the Council have patience; the golf course is going in the right direction after all of these years.

He said that the first thing they do when a golf course is privatized is they get rid of the current management. He said that they have three people at the Antelope Hills Golf Course with a combined total of 65 years of on-site experience. He said that he saw an ad on the television last night that the City is promoting shopping locally. He said that if they privatize Antelope Hills, rates would probably go up since Dawn Foster, the City's purchasing manager, has surveyed other communities and found that when golf courses are privatized, the rates generally went up. He said that course conditions will stay the same or go stagnant. He said that at the places he has worked, the more knowledgeable people were replaced with not so knowledgeable people.

Mr. Compton said that he was asking the Council to leave Antelope Hills alone. He then congratulated Councilwoman Suttles for her involvement with the south golf course and new clubhouse in 1992 and 1993. He urged the Council to consider not putting out requests for proposals.

Mr. Norwood said that the request for proposals would be going out within the next 30 days.

- C. Ed Brogan re Indian Hill.

Ed Brogan said that he lives at 1104 Country Club Drive, and has done so for almost 17 years. He, along with others, oppose the installation of an industrial-sized water tank on Indian Hill; the current well is working well. The new capacity is alleged to be for fire prevention, and a City department head has selected Indian Hill without regard to the residential zoning and need for a variance or special use permit.

If when granted, it would import full knowledge that Council knew of the actual or possible hazards and problems inherent in that location, especially if the tank were to burst. He asked that they consider the decrease in surrounding property value, the inability of property owners to obtain insurance, the constant fear of dying as well as losing their possessions, the risk to historic homes, and children in a nearby church camp.

He said that the City's own report indicates that there are other options and it stated that they really needed a 2 mg tan. He asked if it wouldn't be thriftier and wiser to find another location. He asked if the safety of Indian Hill residents were not on par with others. They will need security, and he provided a copy of an article regarding Blackstone, MA that demonstrated why security was needed. He asked them to consider the modern advances in water delivery such as larger mains and multiple stage pumps or perhaps a revamp of the City's water system so as to avoid making band-aid type improvements.

Mr. Brogan asked them to consider the possible legal ramifications and asked if injunctive relief would lie, either temporarily or permanently, if the doctrine of attractive nuisance would apply or willful negligence would be found. He asked if a class action would lie, a personal or public nuisance action would lie, recall would be instituted, or could an insurance company pay its contractual obligation and withdrawal, or if a court could find that individual members or the Council went beyond the scope of their authority. He asked if this could encompass the taking of property without due process as forbidden by the U.S. Constitution.

He asked that the Mayor and Council table this project and locate the installation in an area that is not in or over a large populated area.

Mayor Wilson asked Mr. Brogan if he was a retired lawyer. Mr. Brogan replied that he was. Mayor Wilson asked for Mr. Kidd's feedback on the different issues raised by Mr. Brogan. Mr. Kidd said that there are about nine or ten theories about it being a taking. He said that it is City property so there is no regulatory taking. Whether it is a willful negligence would depend on the facts. Injunctive relief would probably not lie with it being on their own property. He said that he would have to look at each of the issues individually.

Councilman Lamerson said that maybe they should be looking at putting in the 2 mg tank like the consultants have recommended.

D. Paddie Braden re City Improvements.

Paddie Braden, 1755 Pacific Avenue, said that she was speaking on behalf of herself, her husband, many of the property owners in the Cliff Rose areas,

and others. She said for the past few years she has made several requests for some form of landscaping on the medians to enhance Prescott Lakes Parkway from Highway 89 to Highway 69, as many felt it was one of their gateways to the City. They were continually overgrown with weeds and full of motorists' trash. Today she wanted to commend and thank the Council and, more importantly, Chad McDowell and Tim Legler, and their rock crews. She also thanked Craig McConnell and Mark Nietupski for their part in the landscape project as well as the painting of the large public works building on Sundog Ranch Road from blue to tan, to match the other facilities located there. Both of the sites have been greatly improved.

Mr. Norwood said that each of the Council members had received a letter that asked why they spent \$1.2 million on that project. He did call and explain to the lady that they have spent \$38,000, which was considerably under budget. He said that it does reduce a lot of the silt that goes into Watson Lake and it is much safer on the City employees to not have to do a lot of maintenance. It was a great job and demonstrates the innovation and creativity of Tim Legler and Chad McDowell, and all of those people that work in their department.

Councilman Luzius told Mr. McDowell and Mr. Legler that he has had so many compliments on what they have done. He said that he believes that most of the materials were recycled. Ms. Hadley replied that about half of the materials were recycled.

II. PROCLAMATIONS

A. June 26, 2008 as *March of Dimes Day*.

Mayor Wilson read the proclamation proclaiming June 26, 2008 as *March of Dimes Day*, and presented it to their representative, who thanked the Mayor and Council and said that her daughter would not be with them without all that the March of Dimes does.

B. June 28, 2008 as *Yavapai Big Brothers Big Sisters Day*.

Councilwoman Lopas read the proclamation proclaiming June 28, 2008 as *Yavapai Big Brothers Big Sisters Day*, and presented it to David Seigler. Mr. Seigler of Big Brothers Big Sisters, said that they are celebrating not just Big Brothers Big Sisters Day but also the opening of their new facility and he invited everyone to attend the opening on Sunday between 1:00 p.m and 4:00 p.m. to see their accomplishments.

- C. July 12, 2008 as *Ringling Bros. and Barnum & Bailey Day*.

Councilman Luzius read the proclamation proclaiming July 12, 2008 as *Ringling Bros. and Barnum & Bailey Day*.

At this time, Councilman Roecker stated that they had some Boy Scouts and their families present for a presentation which had been left off the agenda, and since they were present the Council decided to go ahead and make the presentation, and they would ratify the actions at their next regular meeting. He then presented awards to the following individuals for their attainment of Eagle Scout: Marritt M. Moore; Tayler Goodman, Tyler Goodman and Spencer R. Campbell and Spencer L. Campbell.

III. PRESENTATIONS

- A. Introduction of New Businesses.

At this time, the following new businesses were introduced and each gave a brief background:

Prescott E News
Bella Donna Boutique
Robart General Funding
DeCarol Company
NARFE, Chapter 321

IV. CONSENT AGENDA

CONSENT ITEMS A THROUGH M LISTED BELOW MAY BE ENACTED BY ONE MOTION. ANY ITEM MAY BE REMOVED AND DISCUSSED IF A COUNCILMEMBER SO REQUESTS.

COUNCILMAN LUZIUS MOVED TO APPROVE CONSENT AGENDA ITEMS IV-A THROUGH IV-M; SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.

- A. Approve Focused Future II Community and Economic Development 3-5 Year Strategic Plan.
- B. Approve a three-year Economic Development Agreement with Prescott Historical Society, Inc. in an annual amount not to exceed \$12,500.00.
- C. Approve a consulting contract for court-related computer services with M.C. Woodfill & Associates.

- D. Adopt Resolution No. 3895-0863 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the City of Prescott to enter into an Intergovernmental Agreement with the Town of Prescott Valley, the Central Yavapai Fire District, the Groom Creek Fire District, the Williamson Valley Fire District, the Chino Valley Fire District and the Yavapai Community College District for the provisions of consolidated dispatch services, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- E. Approve lease agreement with Chartier Drywall, LLC to house the Fire Department's Fuels Crew in the amount of \$2,585.00 per month for rent and \$150.00 per month to include all utilities.
- F. Award a contract to Duke's Root Control, Inc. in the amount of \$104,722.00 for the application of root control agents to the sanitary sewer system.
- G. Award a contract to Asphalt Paving and Supply, Inc., in the amount of \$317,510.70, for the Sundog Wastewater Treatment Plant Pavement Reconstruction Project.
- H. Adopt Resolution No. 3897-0865 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, approving a utility agreement between the City of Prescott and the State of Arizona to relocate and upgrade a City waterline, and authorizing the Mayor and staff to take any and all steps necessary to accomplish the above.
- I. Award a bid for the Annual Striping and Pavement Marking Project to Traffic Safety Inc., in the amount of \$130,995.92.
- J. Adopt Ordinance No. 4657-0859 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona abandoning portions of Adams Avenue and Kile Street located south of Iron Springs Road near the intersection of Meadow Ridge Road, retaining any necessary public utility easements, and authorizing the Mayor and City staff to take all necessary steps to effectuate such abandonment.
- K. Approve contract with AT Systems Security for Granite Street Parking Garage security services in an amount not to exceed \$43,800.00.
- L. Award annual contract for legal advertisement of public notices to Prescott Newspapers, Inc. (Daily Courier) for Fiscal Year 2009 at the rate of \$11.16/column inch for straight copy and \$9.30/column inch for camera-ready copy.

- M. Approve the Minutes of the Prescott City Council Regular Voting Meeting of May 13, 2008, the Study Session of June 3, 2008 and the Workshop of June 3, 2008.

V. REGULAR AGENDA

- A. Reappointment of members to the Fire Board of Appeals.

Ms. Burke stated that this is for three terms expiring either this month or next month on the Fire Board of Appeals, for George Taylor, Dan Fraijo, and Judith Haley. They have all indicated an interest in being reappointed, and the Council Appointment Committee is recommending that they be reappointed.

Mayor Wilson invited the members present to come forward and thanked them for their service, and their willingness to continue serving.

COUNCILMAN LUZIUS MOVED TO ACCEPT THE COUNCIL APPOINTMENT COMMITTEE'S RECOMMENDATION AND REAPPOINT GEORGE TAYLOR TO THE FIRE BOARD OF APPEALS, TERM TO EXPIRE JUNE 2010, AND REAPPOINT JUDITH HALEY AND DAN FRAIJO TO THE FIRE BOARD OF APPEALS, TERMS TO EXPIRE JULY 2010; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

- B. Public Hearing and consideration of liquor license application from Song Pok Kwak, agent for DO5M, LLC, for a Series 9, *Liquor Store*, license for Liquor Barn located at 405 West Goodwin Street.

Ms. Burke reviewed this application, noting that the property had been posted as required by statutes and no public comments had been received. She noted that the applicant was present if they should have any questions. Mr. Kwak said that he lives at 4964 Summit Circle, Prescott, and that they like having the opportunity to have a business in Prescott.

COUNCILWOMAN SUTTLES MOVED TO CLOSE THE PUBLIC HEARING; SECONDED BY COUNCILMAN LAMERSON; PASSED UNANIMOUSLY.

COUNCILMAN LAMERSON MOVED TO APPROVE THE LIQUOR LICENSE APPLICATION FROM SONG POK KWAN, AGENT FOR DO5M, LLC, FOR A SERIES 9, LIQUOR STORE, LICENSE FOR LIQUOR BARN LOCATED AT 405 WEST GOODWIN STREET; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNIMOUSLY.

- C. Adoption of Ordinance No. 4656-0858 – An ordinance of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, authorizing the

purchase of real properties, easements and improvements from Donald A. Guzzo, Nicholas and Lorraine Guzzo, Donald and Joan Guzzo Nicholas and Lorraine Guzzo Joint Tenants with Rights of Survivorship, Michael S. Drew, Rutkowski Family Trust, Dale and Vanessa Coffman, Robert and Michele Flori for the widening of Williamson Valley Road, and authorizing the Mayor and staff to execute any and all document to effectuate said purchases.

Mr. Nietupski said that they had been discussed last week, and staff had no new information. Councilman Luzius said that last week he had requested to have this item pulled from the Consent Agenda because when the reconstruction of Williamson Valley Road, at this section, came up he voted against it, and he will be voting against it today, although he has nothing against those receiving money for their property. He said that there are a lot of people in the Williamson Valley area that are against widening the road and he doesn't think it should be the taxpayers paying for it; it should be the developers that the road is going to serve, such as Yavapai Ranch, Las Vegas Ranch, etc.

COUNCILWOMAN SUTTLES MOVED TO ADOPT ORDINANCE NO. 4656-0858; SECONDED BY COUNCILMAN BELL; PASSED 6-1, WITH COUNCILMAN LUZIUS CASTING THE DISSENTING VOTE.

- D. Endorsement of creation of a Mayor's Advisory Committee on Unsewered Areas.

Mayor Wilson said that this was to follow-up on last week's discussion and request to create a Mayor's Advisory Committee on Unsewered Areas, and incorporate the recommendations made by Councilman Roecker.

COUNCILMAN BELL MOVED TO ENDORSE THE CREATION OF A MAYOR'S ADVISORY COMMITTEE ON UNSEWERED AREAS; SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.

- E. Adoption of Resolution No. 3898-0866 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona rescinding Resolution No. 3890-0857 and adopting certain fees at Ernest A. Love Field.

Airport Manager Ben Vardiman said that when staff was making the changes to the newly-adopted rates and fees they realized that there were two errors made. He said that staff felt that the cleanest way to make those corrections was to repeal the previous resolution and adopt a new one with the correct rates/fees.

Councilwoman Suttles asked Mr. Vardiman if there have been any complaints from the renters regarding the mistake. Mr. Vardiman said that they have not received any, and this is in line with the Federal guidelines that

require them not to discriminate. He said that the mistake was due to his not double-checking himself.

COUNCILMAN ROECKER MOVED TO ADOPT RESOLUTION NO. 3898-0866; SECONDED BY COUNCILWOMAN LOPAS; PASSED UNANIMOUSLY.

- F. Consideration and possible settlement in City of Prescott v. Safe Harbor.

City Attorney Gary Kidd said that this case went to court and the City lost; along with that the City continued to talk with the opposing counsel and Safe Harbor agrees to this settlement agreement. He said that there are attorneys fees involved and they have agreed to not pursue, and walk away from the attorneys fees in return for which the City would not appeal. Additionally, they agreed to the landscaping as recommended by staff at the original Board of Adjustment meeting.

COUNCILWOMAN LOPAS MOVED TO AUTHORIZE ENTERING INTO A SETTLEMENT AGREEMENT WITH DEFENDANTS, DISMISS THE CITY'S APPEAL, AND AUTHORIZE THE MAYOR AND LEGAL STAFF TO EXECUTE ALL NECESSARY DOCUMENTS ON BEHALF OF THE CITY OF PRESCOTT; SECONDED BY COUNCILMAN BELL; PASSED UNANIMOUSLY.

- G. Public Hearing on the Final Budget for Fiscal Year 2009 including expenditure limitation and proposed tax levy.

Mr. Woodfill said that this is the end of a six month process that was started back in January of this year at the Goals Retreat. From the May 22 budget workshop where they presented \$203,436,243, they have had several additions and deletions, reductions that happened since then. The Council wanted the Capital Needs Committee amount put in as capital project funds in case an election was called. He noted that just because they are in the budget they do not have to be spent. There was an additional carry forward for a golf cart purchase that would not be completed by the end of the year, transient occupancy tax contingency as well as several other little things, with the grant for the airport being moved out until 2010. This brought their new total to \$256,277,163.

Councilman Luzius asked if the \$10,000 indicated on the list was an additional \$10,000 for a total of \$20,000 for Meals on Wheels; Mr. Woodfill replied that was correct.

Councilman Lamerson asked if they go ahead and approve the cap, if he still has the liberty to vote against anything they agree on as a team. As they come forward, he can disagree with spending money. Mr. Woodfill said that

was correct. He said that this is adoption of a budget, or an appropriation limit as required by the City Charter as well as state law. Each individual item still has to follow the City's procurement procedures, which includes Council approval for items over \$20,000.

Mayor Wilson said that it is quite likely that they won't spend anywhere near this total. He said that they included everything that would be needed for the capital needs if they went forward with a bond election; however, even if they were all approved, the debt would not be issued all in one year.

**COUNCILMAN ROECKER MOVED TO CLOSE THE PUBLIC HEARING;
SECONDED BY COUNCILMAN LUZIUS; PASSED UNANIMOUSLY.**

VI. ADJOURNMENT

The Regular Voting Meeting of the Prescott City Council held on Tuesday, June 24, 2008, adjourned at 4:02 p.m.

SPECIAL MEETING

1. Call to Order.

The Special Meeting of the Prescott City Council held on Tuesday, June 24, 2008, was called to order at 4:02 p.m.

2. Adoption of Resolution No. 3896-0854 – A resolution of the Mayor and Council of the City of Prescott, Yavapai County, Arizona, finally determining and adopting estimates of proposed expenditures for the Fiscal Year 2009, and declaring that the same shall constitute the budget for the City of Prescott for said fiscal year and establishing the expenditure limitation and adopting the Capital Improvement Program for Fiscal Years 2009 through 2013, approving and updating the job roster for the City of Prescott and setting forth its determination as to unfunded capital and other unfunded budgetary requests.

Mr. Woodfill noted that there was a typo on the agenda; however it is correct in the resolution. The Capital Improvement Program being considered is for 2010 through 2014. He said that the resolution establishes their budget for 2009 and states their expenditure limitation, approves the five-year plan, and approves the City job roster, as required by the City Charter, and identifies unfunded CIP projects.

**COUNCILWOMAN LOPAS MOVED TO ADOPT RESOLUTION NO. 3896-0854;
SECONDED BY COUNCILMAN ROECKER; PASSED UNANIMOUSLY.**

3. Adjournment of Special Meeting.

There being no further business to be discussed, the Special Meeting of the Prescott City Council held on June 24, 2008 adjourned at 4:03 p.m.

JACK D. WILSON, Mayor

ATTEST:

ELIZABETH A. BURKE, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the City Council of the City of Prescott, Arizona held on the 24th day of June, 2008. I further certify the meeting was duly called and held and that a quorum was present.

Dated this ____ day of _____, 2008.

AFFIX
CITY SEAL

ELIZABETH A. BURKE, City Clerk